THE HONOURABLE SRI JUSTICE GODA RAGHURAM

WP NO. 17285 OF 2006

13-11-2007

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Between:

P.Linga Das, Secunderabad

....Petitioner

And :

Municipal Corporation of Hyderabad
and others

...Respondents

THE HONOURABLE SRI JUSTICE GODA RAGHURAM

WP NO.17285 OF 2006

ORAL ORDER:

Heard the learned counsel for the petitioner, Ms Kalpana Ekbote, the learned Standing Counsel for the 1st respondent. None appears for the respondents 2 to 5.

The petitioner is aggrieved by the inaction of the respondents 1 and 2 on the complaint of the petitioner dated 17.6.2006 alleging illegal construction by the respondents 3 to 5 in Sy.Nos. 24, 25 & 31 (TS No.20) Ward No.140, Block No.I, Miyakunta village, Uppar Basthi, Namalgundu, Secunderabad. The petitioner seeks a direction to the 1st respondent to forthwith take action on his complaint against the illegal constructions by the respondents 3 to 5.

According to the petitioner the property belongs to him. However there is a dispute between the petitioner and the respondents 3 to 5 in this regard. These respondents also lay claim to the property and are

allegedly proceeding with illegal constructions by construction of compound wall, rooms and permanents structures in the land in question. The petitioner lodged a complaint on 17.6.2006 alleging such illegal constructions. There being no response this writ petition is filed on 18.8.2006.

On behalf of the respondents 3 to 5 a counter is filed by the 4th respondent denying any constructions except for a compound wall in the land in question. These respondents also claim title to the property in question.

A copy of the complaint dated 17.6.2006 is filed along with the writ petition. This complaint is addressed to the 2nd respondent marking copies to the City Planner, Additional Commissioner and Commissioner, MCH. On behalf of the 1st respondent though no counter affidavit has been filed for over a year, the learned Standing Counsel Ms Kalpana Ekbote would state that the complaint is not directly addressed to the 1st respondent and only a copy is marked to the officers of the 1st respondent including the Commissioner.

Since the complaint categorically asserts illegal constructions by the respondents 3 to 5 in a property within the regulatory jurisdiction of the 1st respondent, the 1st respondent should have responded either to the representation of the petitioner or at any rate should have caused enquiries as to whether any unlawful constructions have been carried on. Even on behalf of the respondents 3 to 5, it is admitted in their counter that they had constructed a compound wall. Even a compound wall could not be construction without permission u/Sec. 428 of the Hyderabad Municipal Corporation Act 1955 ('the Act'). The utter lack of response to the petitioner's representation dated 17.6.2006 as well as the non-response by the 1st respondent to this writ petition, signals a casual approach to the statutory responsibility.

In the circumstances above, notwithstanding that there are

disputes between the petitioner and the respondents 3 to 5 with regard to ownership and title to the property in question, the 1st respondent is not absolved of the responsibility to move against illegal constructions if not on its own atleast when it is brought to its notice by a citizen and for whatever reason. The failure of the 1st respondent to have responded to the petitioner's representation dated 17.6.2006 and even file a counter affidavit in this case for over a year, signals negligent conduct on the part of the 1st respondent. Accordingly the writ petition is disposed of directing the 1st respondent to forthwith verify the petitioner's allegations as contained in his representation dated 17.6.2006 and if there be illegal constructions in Sy.Nos. 24, 25 & 31 (TS No.20) Ward No.140, Block No.I, Miyakunta village, Uppar Basthi, Namalgundu, Secunderabad, to initiate expeditious action for removal of the illegal constructions by duly following the established procedure under the provisions of Sections 452 and 636 of the Act.

Since the silence of the 1st respondent amounts to an admission of atleast a casual approach of the 1st respondent, this court is inclined to impose costs of Rs.1,000/- (Rupees One thousand only) payable by the 1st respondent to the Secretary, AP State Legal Services Authority, Hyderabad, within two weeks from the date of receipt of a copy of this order.

A copy of this order be marked to the Secretary, AP State Legal Services Authority, Hyderabad, for information.

13.11.2007 ----------
Pvsn Justice G.Raghuram